

EXPANDED AGENDA
Board of Adjustment, District 3
Tuesday, January 8, 2013
J.P. Courtroom, County Service Center
126 W. 5th Street
Benson, Arizona

6:30 P.M. Call to Order

Roll Call (Introduce Board members, and explain quorum)
(Also explain procedure for public hearing, i.e., after Planning Director's Report, Applicant will be allowed 10 minutes; other persons will each have 5 minutes to speak and Applicant may have 5 minutes for rebuttal at end, if appropriate.)

Determination of Quorum

Approval of Previous Minutes

NEW BUSINESS

Item 1 (Page 1) – Introduce Docket and advise public who the Applicants are.

Docket BA3-13-01 (Gyurkovic): Appellant, James Gyurkovic wishes to reside in a park model on the subject parcel which is zoned MH-72. Article 2 of the County Zoning Regulations classifies park models as RVs, but RVs are not allowed as principal permitted uses in the MH-72 Zoning District. The Appellant disputes the County's determination that the proposed dwelling is an RV; he maintains that it is a manufactured home, which are allowed as principal permitted uses in the MH-72 Zoning District. He is appealing the County Zoning Inspector's determination that the unit is an RV and cannot be used as a dwelling on the subject parcel. The subject parcel (tax parcel no. 208-69-034) is located at 2278 Sunset Avenue in the Willow Lakes subdivision north of Benson, AZ.

Appellant: James Gyurkovic.

- Call for PLANNING DIRECTOR'S PRESENTATION
- Declare PUBLIC HEARING OPEN
 - 1) Call for APPLICANT'S STATEMENT
 - 2) Call for COMMENT FROM OTHER PERSONS (either in favor or against)
 - 3) Call for APPLICANT'S REBUTTAL (if appropriate)
- Declare PUBLIC HEARING CLOSED
- Call for BOARD DISCUSSION (may ask questions of Applicant)
- Call for PLANNING DIRECTOR'S SUMMARY AND RECOMMENDATION
- Call for MOTION
- Call for DISCUSSION OF MOTION
- Call for QUESTION
- ANNOUNCE ACTION TAKEN (with Findings of Fact)

Call for Planning Director's Report

Call to the Public

ADJOURNMENT



COCHISE COUNTY COMMUNITY DEVELOPMENT

"Public Programs...Personal Service"

MEMORANDUM

TO: Cochise County Board of Adjustment, District 3
FROM: Keith Dennis, Planner II
For: Beverly Wilson, Deputy Director, Planning Division
SUBJECT: Docket BA3-13-01 (Gyurkovic)
DATE: December 27, 2012, for the January 8, 2013 Meeting

ZONING APPEAL

Docket BA3-13-01 (Gyurkovic): The Appellant, James Gyurkovic, wishes to reside in a Park Model on a parcel in an MH-72 Zoning District. Article 2 of the County Zoning Regulations classifies Park Models as Recreational Vehicles (RVs), but they are not allowed as principal permitted uses in the MH-72 Zoning Districts. The Appellant disputes the County's determination that the proposed dwelling is an RV; he maintains that it is a manufactured home, and should therefore be eligible for use as a principal dwelling.

The subject parcel (Parcel No. 208-69-034) is located at 2278 Sunset Avenue in the Willow Lakes subdivision north of Benson, AZ. The Appellants are James Gyurkovic and Sharon Marchewka.

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING USES

Zoning: MH-72 (Mobile Home District, one dwelling per 7,200 square feet)
Parcel Size: 8,362-sq. ft. (0.19 acres)
Growth Area: Category D (Rural)
Plan Designation: Rural Residential
Area Plan: Tres Alamos Area Plan
Existing Uses: Manufactured Home Subdivision
Proposed Uses: Park Model RV as permanent principal dwelling

Surrounding Zoning and Uses

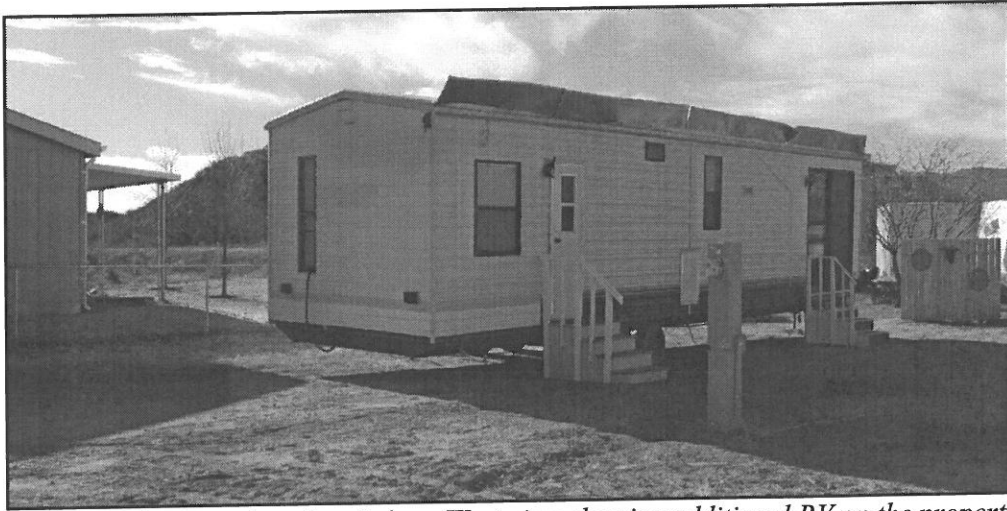
Relation to Subject Parcel	Zoning District	Use of Property
North	MH-72	Undeveloped
South	MH-72	Manufactured Home Residential
East	MH-72	Sunset Ave., Manufactured Homes
West	RU-4	Agriculture

II. PARCEL HISTORY

May 2012 – The Appellants inquired about placing a manufactured home on the property, and were informed that the Park Model RV they owned did not qualify as a manufactured home.

However, staff were informed that this unit would be sold and a manufactured home would be purchased and used on the property.

June 2012 – The Appellants applied for a permit to install a 12' x 40' manufactured home, right-of-way permit, and a permit to install a septic system for the proposed manufactured home on the property. Such permits may be issued without a designated, associated manufactured home unit. These permits were consequently issued on the assumption that a unit meeting the definition of a manufactured home would be placed on the site, and carried a condition specifically requiring that the unit not be a Park Model RV.

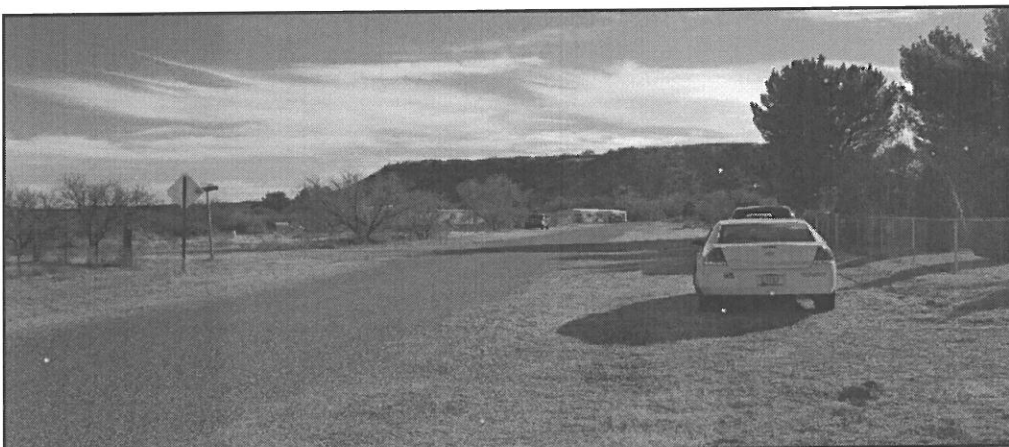
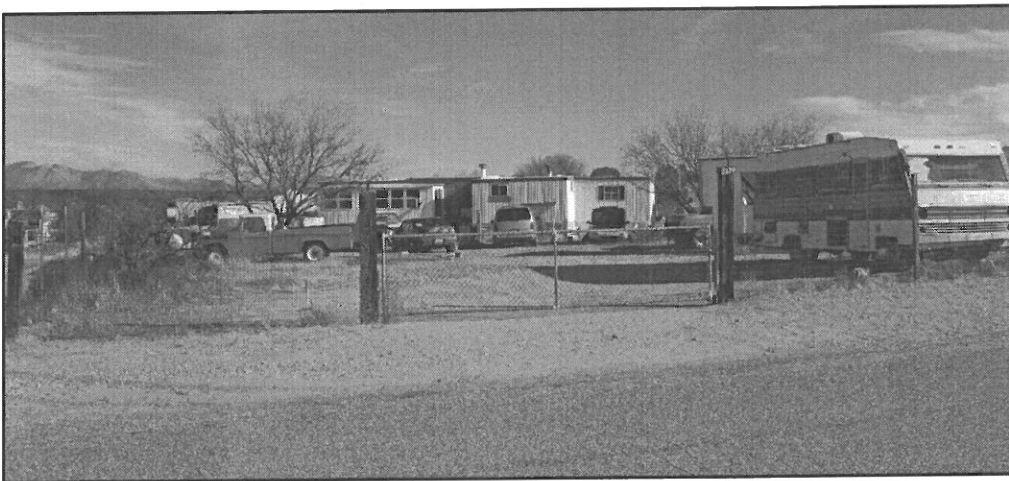
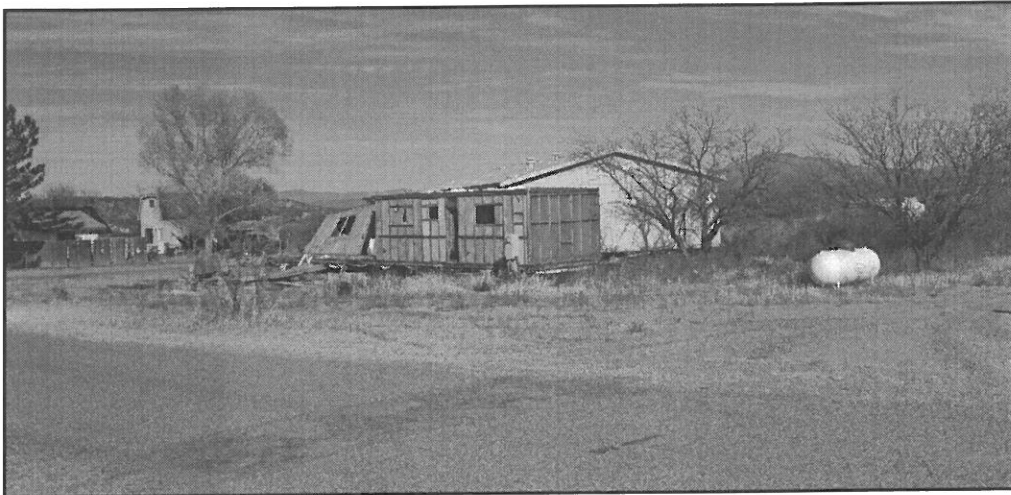


Above: the Gyurkovic park trailer. Below: West view showing additional RV on the property. The Appellants have been occupying this RV pending the outcome of the appeal.



July 2012 – Upon a request by the Appellants to have the status of the unit verified, the County Building Official inspected the unit in question, which was at the time located in an RV park in Tucson. He informed the Appellants as well as staff that the unit was a Park Model RV and not a manufactured home and as such, was not allowed as a principal structure on the property.

In August 2012, staff observed that the RV had been placed on the property, and a stop work order was issued for this parcel for placing a shed and Park Model RV without a permit, and without a principal residence.



Views to adjacent properties across Sunset Avenue, from northeast to southeast.

III. ANALYSIS

Section 2103.01 of the Zoning Regulations empowers the Boards of Adjustment to “interpret any word, phrase, or section of [the] Zoning Regulations, when there is a dispute between the Appellant and the Zoning Inspector.” In this case, the Appeal is based on the Appellants dispute over the meaning of the term “recreational vehicle,” particularly as it applies to the County and State definition of a “Park Model,” which is as follows:

A park trailer built on a single chassis, mounted on wheels, and designed to be connected to utilities necessary for operation of installed fixtures and appliances, and has a gross trailer area of not less than 320 square feet and not more than 400 square feet when it is set up.

The Appellant maintains that the Zoning Inspector “States that our MH is a Park Model RV [and] we feel it is [an] MH. We are willing to rehabilitate to meet MR-2 Zoning” (see Attachment A – Appeal Form).

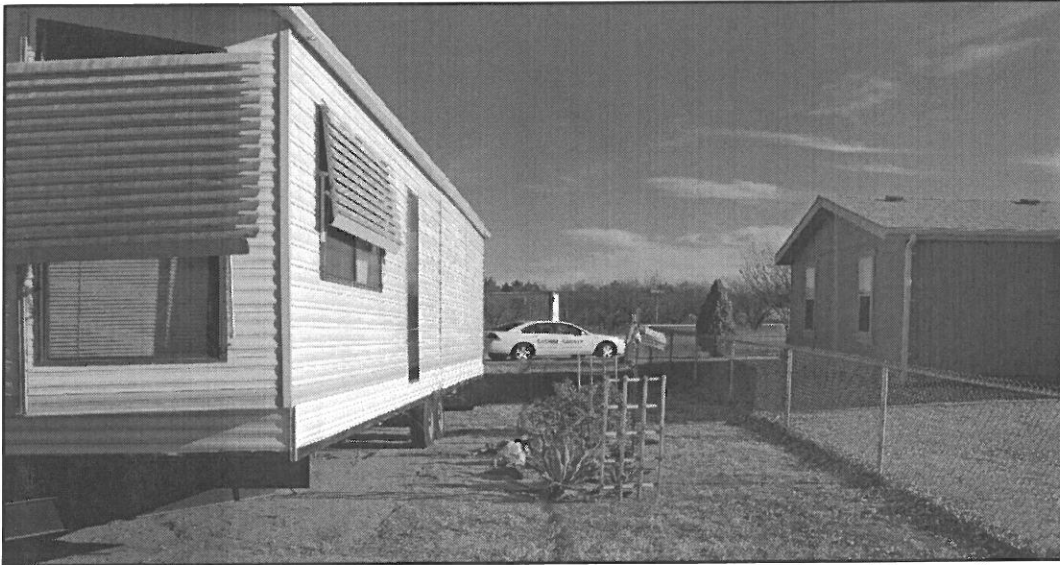
The MH-72 District is a zoning designation no longer used for present and future rezonings, but which was used for mobile home developments in earlier iterations of the Regulations. Article 10 of the current Zoning Regulations states that existing MH-72 Districts “shall be subject to the requirements of the MR-2 zoning district” (Section 1002). Under the MR-2 standards, permanent occupancy of a Park Model RV is allowed only within an RV park.

As stated in Section II of this report, above, the Building Official inspected the unit in question in July of 2012 (see Attachment D – Correspondence). He reported that “the unit is a park model and is located in an adult community made up exclusively of park model homes.”

Park Model RVs can reasonably be and often are mistaken for manufactured homes: they are similar in appearance than standard manufactured home units, although they are smaller in size. However, Park Models are often built for transient, seasonal or semi-permanent occupancy, and are often, as a result, built to accommodate a range of temperatures between 45 and 90 degrees Fahrenheit, rather than the broader range found in units built for permanent occupancy. This is because Park Models are most often constructed to American National Standards Institute (ANSI) standards, rather than to the standards used by the Department of Housing and Urban Development (HUD), as is the case with manufactured homes. Some Park Models also carry septic waste holding tanks, similar to motor homes, although this particular model is built to hook up to a septic system (for which the Appellant applied for a permit in June of 2012).

IV. PUBLIC COMMENT

Staff mailed notice to property owners within 300 feet of the subject parcel on December 12, 2012, and published a legal notice in the *Bisbee Observer* on December 13. Planning Division staff also visited the property on December 20, 2012. To date, staff has received no correspondence from any neighboring property owner.



Current location of Park Model relative to southern property line. If approved, the Appellants would move the RV several feet away from this property line.

V. SUMMARY AND CONCLUSION

County Zoning Regulations define the unit as an RV, and permanent occupancy of RVs in Cochise County is limited essentially to RV parks. This standard is in place in part due to a desire to prevent a proliferation of mobile, transient housing throughout the County in an unregulated fashion. However, Park Model RVs are somewhat different in that these do not have the same mobility as more conventionally recognized types of RVs, such as “motor homes,” or “pop-up” types which are built to be towed by passenger vehicles and light trucks. Park Models are instead moved using heavy trucks, and installed on a property in a way more common to conventional manufactured homes rather than RVs as they are commonly conceived. This model in particular must utilize an in-ground septic system in order to operate properly. As such, a lay person might mistake a Park Model RV for a manufactured home. Nevertheless, the unit is considered a Park Model RV per the County Zoning Regulations.

Notwithstanding the fact that this Docket is a dispute over the meaning of the term “Park Model RV” as defined in the Zoning Regulations, staff’s view is that the real issue is the Appellants’ desire to utilize a Park Model they already own on a lot designated for manufactured homes. The Appellants formerly lived in the unit at an RV park which was designed for such units, and at that time, the designation of the units there as park trailer RVs was not a matter for debate. The disagreement over the definition arose in response to the Appellants having been told by staff that the unit is considered an RV and therefore not allowed on this lot because of the underlying MH-72 zoning. The dispute, then, is not so much concerning the proper term used to define the unit, as it is with whether or not the unit should be allowed as a principal dwelling on the property.

If the Board grants the appeal, staff will treat the unit as a manufactured home, and the Appellant will be allowed to complete the permits issued for this lot and occupy the Park Model as a principal residence.

5

If the Board denies the appeal, staff will issue a zoning violation and allow occupancy of the property only by establishment of a principal permitted structure allowed in the MH-72 District: namely, a single or multiple-household dwelling, including a rehabilitated mobile home or manufactured home.

Factors in Favor of Granting the Appeal

1. Granting the Appeal would allow for development and utilization of a previously unused residential lot.

Factors Against Granting the Appeal

1. Per Article 2 of the Zoning Regulations, the unit in question is classified as a Recreational Vehicle (RV);
2. Permanent occupancy of RVs in Cochise County is allowed under limited circumstances, such as in designated RV parks, in order to discourage an unregulated proliferation of mobile, transient housing throughout the County; and
3. The Applicants placed the unit without a permit.

VII. RECOMMENDATION

Based on the factors against granting the appeal as findings of fact, Staff recommends the Board of Adjustment **deny** the appeal.

Sample Motion in the affirmative: Mr. Chairman, I move to approve Docket BA3-13-01, finding that the unit in question may be considered a manufactured home and therefore eligible to be used as a principal dwelling in this MH-72 Zoning District.

VIII. ATTACHMENTS

- A. Appeal Form
- B. Location Map
- C. Correspondence
- D. HUD Manufactured Housing & Standards General Program Information



COMMUNITY DEVELOPMENT DEPARTMENT

Planning, Zoning, and Building Safety
1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240
Fax 432-9278

APPEAL TO THE BOARD OF ADJUSTMENT

DESIRING A REVIEW OF THE INTERPRETATION OF THE TERMS OF THE COCHISE COUNTY ZONING REGULATIONS RENDERED BY THE COUNTY ZONING INSPECTOR

TO THE HONORABLE BOARD OF ADJUSTMENT DISTRICT 3.

I (We) the undersigned, hereby appeal to the Cochise County Board of Adjustment District 3 3 to review the decision of the County Zoning Inspector.

State the decision of the Zoning Inspector, the action that has been taken, and the grounds for appeal. Attach additional sheets if needed.

RV
ZI States our MH is a Park Model + we feel it is a MH.

we are willing to rehabilitate to meet MR-2 zoning

Parcel Number of the subject property: 208-69-034

Address of the subject property: 2278 N Sunset Ave Benson AZ 85602

We the undersigned hereby certify and declare that to the best of my/our knowledge and belief, the data submitted on and attached to this form is true and correct.

Print Name of Appellant (s): James Gyurkovics & Sharon Marchewka

Signature of Appellant (s): James Gyurkovics & Sharon Marchewka

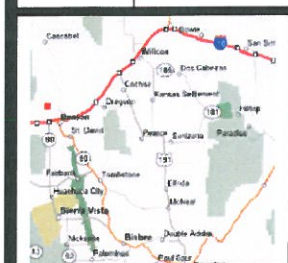
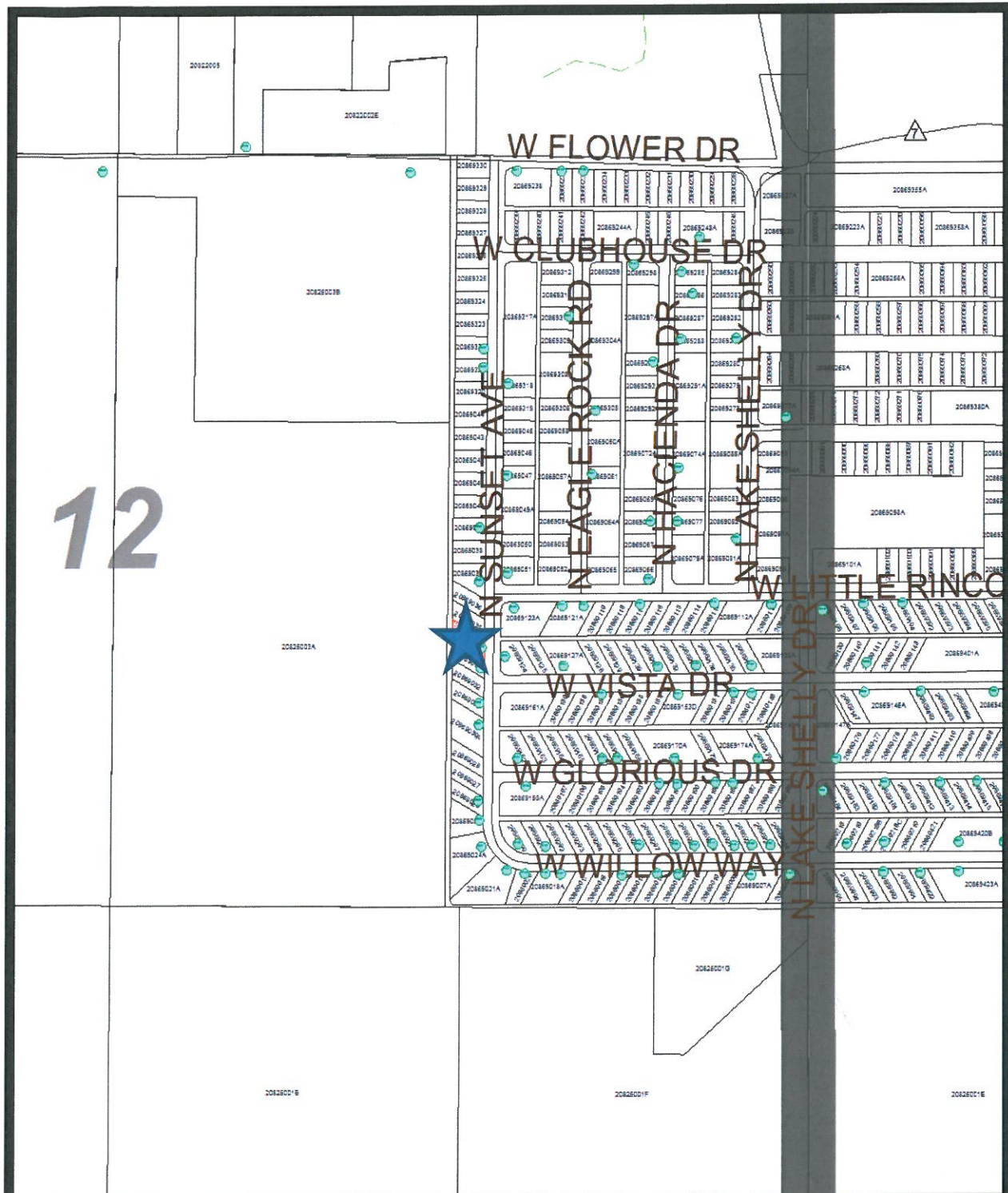
Date: 11-15-12

Mailing Address of Appellant (s): 2278 N Sunset Ave Benson AZ 85602

Phone Number of Appellant (s): (520) 388-0909 (520) 450-9797

EMAIL Address of Appellant (s): _____

Note: Each application shall be accompanied by a check in the amount of \$150 payable to the Cochise County Treasurer. Return application to the Cochise County Planning Department, 1415 Melody Lane, Building E, Bisbee, Arizona 85603.



Docket BA3-13-01 (Gyurkovic Appeal) Location Map

This map is a product of the
Cochise County GIS



0' 1" = 492'

8

Corley, Rick

From: Holden, Jack
Sent: Thursday, July 26, 2012 9:29 AM
To: Corley, Rick
Subject: RE: Structure requested to be moved to parcel 208-69-034

Rick, this unit was inspected by me on July 13, 2012. The unit is a Elegante model built by Sundowner, 1980's model home of about 400 sq feet with pop outs and a car port attached. This unit is a park model and is located in an adult community make up exclusively of park model homes. I checked the web to ensure the home is a park model and the Sundowner lines are all park models. jack

Jack Holden CBO
Cochise County Building Official
1415 Melody Lane Building E
Bisbee, AZ 85603
520-432-9268

From: Corley, Rick
Sent: Wednesday, July 25, 2012 11:46 AM
To: Holden, Jack
Subject: Structure requested to be moved to parcel 208-69-034

Could you send me an email on your determination that the structure is at 8989 E Escalante, Lot 279, Tucson, AZ 85730?
Thanks.

Rick Corley, Zoning Administrator

Cochise County Community Development Department
Planning, Zoning and Building Safety
1415 Melody Lane, Building E, Bisbee, AZ 85603
(520)432-9240
Fax (520)432-9278
rhcorley@cochise.az.gov

"Public Programs, Personal Service"
www.cochise.az.gov



COCHISE COUNTY COMMUNITY DEVELOPMENT

"Public Programs...Personal Service"

October 24, 2012

Mr. James E. Gyurkovic
Ms. Sharon L. Marchewka
8989 E Escalante Road, Lot 279
Tucson, AZ 85730

RE: Request to locate Park Model on Parcel 208-69-034 in the Willow Lakes Unit 1 Subdivision.

Dear Mr. Gyurkic and Ms. Marchewka,

I have reviewed your request to install a park model recreational vehicle (RV) on Lot 22 of the Willow Lakes Unit 1 Subdivision. Our understanding is that you intend to occupy the RV as a single-family dwelling. The term "park model" is defined as an RV in both our zoning regulations (Article 2), and the Arizona Revised Statutes, 41-2142. The 'park model' is built as a temporary structure meant to be placed in an area with temperatures of 45 degrees to 90 degrees, and is not built to the same State standards used for manufactured and mobile homes.

On July 13, 2012, Mr. Jack Holden, Cochise County Building Official, personally inspected your park model while located at 8989 E Escalante, Lot 279, in Tucson, AZ. He states that it is an 'Elegante' model built by Sundowner, approximately 400-sq.ft. with pop-outs and an attached car port. He states that the unit is a park model, located in a community that was designed for such units (see Attached).

Article 10 of the Zoning Regulations states that "Existing MH-72, MH-54 and MH-36 shall be subject to the requirements of the MR-2 zoning district..." The MR-2 zoning district allows "Single and multiple-household dwellings including rehabilitated mobile homes and manufactured homes..." as a Permitted Principal Use (Section 1003.01). Recreational Vehicles such as park models are not permitted as Principal Uses in this District.

Article 10, Section 1005 of the Zoning Regulations does allow placement of recreational vehicles as *accessory* uses in the MR District, provided they are customarily incidental to an established permitted principal use. RVs are allowed, in other words, but only for if being **stored** and for **temporary occupancy**.

10

Please understand that permitting Staff does not have the flexibility to waive these requirements as they are codified in the County's Zoning Regulations. However, you may seek relief from these Regulations by appealing this determination to the Board of Adjustment.

If you have any further questions or require any additional information and clarification, please feel free to contact me at 520.432.9240.

Sincerely,

Beverly Wilson, Deputy Director
Planning Division, Community Development Department

Attachment:

Cc: Richard Searle, Supervisor, District 3
Dora Flores, Permit and Customer Service Coordinator
Rick Corley, Zoning Administrator
Jack Holden, Building Official

11

HUD > Program Offices > Housing > RAMH > MHS > HUD- Manufactured Housing and Standards

General Program Information

What is a manufactured home?

A manufactured home (formerly known as a mobile home) is built to the Manufactured Home Construction and Safety Standards (HUD Code) and displays a red certification label on the exterior of each transportable section. Manufactured homes are built in the controlled environment of a manufacturing plant and are transported in one or more sections on a permanent chassis.

What is the difference between manufactured and modular homes? Manufactured homes are constructed according to a code administered by the U.S. Department of Housing and Urban Development (HUD Code). The HUD Code, unlike conventional building codes, requires manufactured homes to be constructed on a permanent chassis. Modular homes are constructed to the same state, local or regional building codes as site-built homes. Other types of systems-built homes include panelized wall systems, log homes, structural insulated panels, and insulating concrete forms.

What are my options for financing the purchase of a manufactured home? There are many alternatives for financing your home, including a growing number of lending institutions that are providing conventional and government-insured financing plans for prospective owners. The most common method of financing a manufactured home is through a retail installment contract, available through your retailer. Some lending institutions that offer conventional, long-term real estate mortgages may require the homes to be placed on approved foundations. Manufactured homes are eligible for government-insured

loans offered by the **Federal Housing Administration (FHA)**, the **Veterans Administration (VA)**, and the **Rural Housing Services (RHS)** under the U.S. Department of Agriculture.

For additional assistance, you may wish to contact HUD's **Housing Counseling Clearinghouse**.

HUD-approved housing counseling agencies provide housing counseling to renters, first-time buyers, and homeowners. Homeowners with problems that could result in default of their mortgage or foreclosure on their property need to contact a HUD-approved housing counseling agency immediately. HUD's Housing Counseling Clearinghouse operates a toll-free 24-hour-a-day automated voice response system that provides referrals to local housing counseling agencies, at (800) 569-4287. Referrals are also available to Spanish-speaking consumers.

Whom do I contact if my home was damaged during installation?

Retailers may contract with their customers for the installation of their homes, in which case the retailer is your first contact for installation-related problems. If the retailer does not arrange for the installation and you choose the installation contractor, you should contact the installer who performed the work. If you are not satisfied with the repair, contact the local authority/SAA having jurisdiction. It is important that all services related to the installation be listed separately in the contract.

What should I do if I'm having problems with my home and the Retailer and/or Manufacturer are no longer in business?

12

Contact your **SAA** or State agency that regulates manufactured home manufacturers or retailers. Your State may administer a bonding or recovery fund program for such instances.

My home was built before June 15, 1976. I've made some modifications to my home and believe it meets the HUD Standards. Can someone come inspect my home to make sure it's in compliance with the Standards?

HUD does not inspect homes. Homes built prior to June 15, 1976, even with modifications, do not meet the HUD standards and cannot be accepted as compliant with the HUD Code. As the homeowner, you may find a licensed engineer willing to inspect your home for compliance with your state's housing code. FHA does not insure mortgages on manufactured homes built prior to June 15, 1976. Most other mortgage insurance firms follow FHA's policy.

Will HUD issue certification labels (HUD tags) if my home was built before 1976?

No. The Department will not issue tags for a manufactured (mobile) home constructed prior to the enforcement of the Manufactured Home Construction and Safety Standards, effective June 15, 1976.

What kind of financing is available for my manufactured home?

HUD's FHA program insures two types of mortgages. **Title II** insures mortgages on qualifying manufactured homes sold with land and meeting other requirements. FHA's **Title I** program can provide information to consumers interested in obtaining HUD-insured loans. You may also want to contact lending institutions in your area (or the area where you want to purchase your home) for additional financing options.

What if HUD does not consider my home to meet its requirements for Title I or Title II insured loans? Are there still financing options available to me?

You may wish to consult with private lending institutions such as Freddie Mac or Fannie Mae to see if financial assistance is available to you.

I'm interested in purchasing a mobile home park or building a mobile home park. Where can I go for assistance?

You may contact the Office of Multifamily Housing at 202-708-2495 for assistance. Section 207, which is an FHA mortgage insurance program for HUD-approved lenders, promotes the creation of manufactured home communities by increasing the availability of affordable financing and mortgages.

I live in a mobile home park and I'm having problems with my landlord. Can HUD help me?

HUD does not regulate manufactured (mobile) home parks; however, most states have an association (http://www.mobilehomeparkstore.com/mhp_associations.htm) that can assist manufactured (mobile) homeowners with problems they are encountering.

 **I have a park model home and have made upgrades to my home. I was told I need a HUD label. How do I get one?**

Regardless of the upgrades made to your park model, it is not possible to obtain a HUD label on any

13

structure that was not produced and inspected as a manufactured home in accordance with HUD's Manufactured Home Construction and Safety Standards and Regulations during its original construction. You may contact the Recreational Park Trailer Industry Association

(<http://www.rptia.com>) for additional information and resources regarding park model homes.

14